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Human Rights Committee

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Summary record of the 3048th meeting*

Held at the Palais Wilson, Geneva, on Monday, 17 March 2014, at 3 p.m.

Chairperson: Sir Nigel Rodley

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* No summary record was issued for the 3047th meeting.

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Second periodic report of Chad (continued) (CCPR/C/TCD/2; CCPR/C/TCD/Q/2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Chad took places at the Committee table.*

2. **Mr. Koulamallah** (Chad), introducing his country's periodic report (CCPR/C/TCD/2), said that legislative, presidential and local elections had been held in Chad in 2011 and 2012, and that the National Committee for Political Dialogue had been established in 2013 to facilitate permanent dialogue between the opposition and the political party in power. A new Independent National Electoral Commission had also been set up, and a number of laws had been passed to encourage political pluralism.

3. An interministerial committee on follow-up to international human rights instruments had been established in 2011. Most of the recommendations made by the Committee following its consideration of the initial report of Chad had been implemented, while others were in the process of being implemented or were being considered by the Government. Victims of violations of Covenant rights had access to effective legal remedies. A national human rights action plan had been drawn up following a national human rights forum held in 2010 and was awaiting adoption. The plan focused on eight lines of action, such as strengthening the legal and institutional framework, providing human rights education, and promoting a culture of tolerance, human rights and peace. A bill on reforming the National Human Rights Commission to bring it into line with the Paris Principles was being considered by the Government.

4. Although there was no clear definition of discrimination in national law, the courts did not hesitate to punish discriminatory practices. The Government was conducting awareness-raising campaigns on issues affecting women, such as female genital mutilation (FGM) and domestic violence, and a "zero discrimination" campaign had been launched on 1 March 2014. (FGM), early marriage, and domestic and sexual violence were prohibited by law and perpetrators of those offences were prosecuted. A reform of the Code on the Individual and the Family was under way and would bring the governance of matters by customary law into line with the Covenant.

5. There was a de facto moratorium on the death penalty, which had not been handed down for the past decade. A judicial investigation had been launched into allegations of extrajudicial executions, but the perpetrators had not been identified. Torture was severely punished under the Criminal Code, and the definition of torture as set out in international instruments would be included in the reform of the Code currently under way. However, the reform did not provide for a special mechanism to deal with complaints against the defence and security forces. Following a judicial investigation, the complaint of crimes against humanity committed by rebels and their accomplices during the events of 2008 had been dismissed in July 2013. As much as 700 million CFA francs had been paid as compensation to the victims of those events. Hissène Habré had been prosecuted in 2013 for crimes committed under his rule, and the Extraordinary African Chambers established within the courts of Senegal were investigating victims' claims.

6. The Government had taken a series of measures to improve conditions of detention and to combat arbitrary and secret detention, corporal punishment and human trafficking. Police custody was limited to 48 hours and could be extended for up to 72 hours if authorized by the public prosecutor. Pretrial detention was limited to 6 months for ordinary

offences and 1 year for serious offences. Public prosecutors had been instructed to conduct unannounced visits to gendarmerie and police stations for monitoring purposes.

7. The Government had ratified the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) in 2010 and had taken a number of measures to implement that Convention, including establishing the Interministerial Committee to Combat Trafficking in Persons in October 2013. The Government, with the help of the United Nations Office on Drugs and Crime, was working to establish a legislative framework designed to combat trafficking in persons.

8. An ordinance of 2012 ensured that prison inmates had access to their case files, medical care and remedies and the ability to communicate with their lawyer and family members. In order to combat corruption, judges' salaries had been increased considerably in 2012, and corrupt judges were subject to disciplinary and criminal proceedings. The Ministry for Moral Improvement and Good Governance had been established to prosecute State officials involved in corruption. National law protected journalists from threat or assault, and human rights defenders and trade unionists were neither threatened nor intimidated. They enjoyed the right to sue and defend and the right to strike.

9. Awareness-raising campaigns were conducted to eradicate early and forced marriage and to encourage birth registration. Thanks to efforts under the Action Plan for Children Involved with Armed Forces and Armed Groups, children were no longer recruited by the defence and security forces.

10. **Mr. Bartchiret** (Chad), summarizing the replies to the list of issues (CCPR/C/TCD/Q/2/Add.1), said that Chadian law guaranteed the right to an effective remedy, and he cited two court cases as examples. Regarding question 5 of the list of issues on stereotypes of women and equality between men and women (CCPR/C/TCD/Q/2), the relevant articles of the Constitution were articles 157 and 158, not articles 156 and 157; those articles were not contrary to the Covenant as they prohibited customs that promoted inequality. While national law did not establish quotas for women's representation, there were more women in senior positions than there had been a few years before. Thanks to awareness-raising campaigns, domestic violence was on the decline.

11. The case concerning the disappearance of Ibni Oumar Mahamat Saleh had been dismissed in July 2013. A circular had been issued in 2012 prohibiting all arbitrary and secret detentions, and another circular of 2013 had ordered that persons detained in gendarmerie or police stations must be brought before a public prosecutor within 48 hours. The reform of the Code of Criminal Procedure provided fundamental legal guarantees for detainees and established their right to be brought before a judge without delay. Corporal punishment or any other form of violence or humiliation was prohibited in the education system.

12. Pursuant to Ordinance No. 0031/PR/2011 and Ordinance No. 0032/PR/2011, gendarmes in prisons would be replaced by prison officers, which would result in better treatment for inmates. The first class of future prison officers was currently being trained at the National Institute of Judicial Training. The ordinances had been enacted to bring the Chadian prison system into line with the international instruments Chad had ratified. A prison commission had been established for each prison and was responsible for monitoring the provision of food, access to drinking water and sanitary conditions, participating in the annual assessment of reintegration activities and receiving complaints from inmates about their conditions of detention.

13. A number of prisons had been built throughout the country. The new Prison Act of April 2011 set out the fundamental rights of detainees, including separation of minors and adults and separation of men and women. There was no independent mechanism to receive complaints from detainees. The persons responsible for the deaths by asphyxiation in the

gendarmerie station in Léré had been transferred to N'Djamena prison and would be tried in accordance with the law. The Government had immediately opened an investigation following the killings of detainees by security forces in 2011, and the persons primarily responsible had been prosecuted.

14. The provisions of the Code of the Organization for the Harmonization of Business Law in Africa prohibiting imprisonment for non-payment of debt had been expanded to reflect all the provisions of the new draft Criminal Code. A budget had been allocated to the Directorate for Access to Law, and regional offices of the Directorate had been set up. Ordinance No. 005/PR/2008, which had been deemed to restrict freedoms, had been repealed. There was no media bill currently under consideration in parliament.

15. The minimum ages for marriage were 16 for girls and 18 for boys, and awareness-raising campaigns were conducted to eradicate forced marriage and early marriage. Inspections had been undertaken to detect children in training institutions for the defence and security forces, and by 2013 it had been established that there were no longer any children serving in the Armed Forces.

16. While birth registration rates were not yet satisfactory in rural areas and in camps for displaced persons, significant progress had been made in that regard. The Government had held an information workshop on the State party's initial report and the Committee's recommendations. The workshop had been attended by representatives of civil society, the National Human Rights Commission, the National Assembly and ministries working in the area of civil and political rights.

17. **Mr. Ben Achour** recalled that the Constitution of Chad both reaffirmed that country's attachment to the principles of human rights as set out in such major international instruments as the United Nations Charter, and guaranteed respect for ethnic, religious and regional differences. The Constitution also enshrined commitments to build a society based on, among other things, the rule of law, civil liberties and political pluralism. It further established the primacy of international treaties over domestic law, subject to reciprocity. However, the dual constitutional commitment to universality and to particularity gave rise to a number of human rights problems that would be addressed by the Committee in the course of its dialogue with the delegation.

18. The delegation's reply to the first question raised by the Committee in the list of issues, which concerned the invocation of Covenant rights in national courts, consisted in saying that Chadian law recognized the right to an effective remedy in criminal, civil and administrative matters and cited two relevant cases. However, since the question also related to the extent of dissemination of the Covenant and the resources used for its dissemination, it would be useful to have information on the specific actions taken in that regard. In addition, he would appreciate details of the legal measures taken to incorporate the Covenant into the national body of law, for example concerning the direct application of the Covenant's provisions by the national courts, in particular the Supreme Court.

19. He expressed concern about the slowness of the reform of the National Human Rights Commission and asked what measures had been taken to implement the recommendations made by the Committee in its concluding observations on the initial report of Chad (CCPR/C/TCD/CO/1). In particular, he would like to have detailed information on the Commission's degree of financial and administrative independence, its compliance with the Paris Principles and the scope of its mandate.

20. The State party's delay in adopting the National Human Rights Plan was also a matter of concern. He would like to know the reasons for that delay. In that connection, he asked whether information received by the Committee according to which human rights organizations had boycotted a forum organized in March 2010 to discuss the adoption of the Plan was accurate and, if so, whether that boycott had been in protest at the lack of

progress made by the Commission of Inquiry into the events that had taken place between 28 January and 8 February 2008.

21. **Mr. Fathalla** said he had noted that in its replies to the list of issues the State party had indicated that Chadian legislation contained no definition of discrimination or any provisions on its punishment. However, it had also stated that domestic courts did not hesitate to punish discriminatory practices. He would therefore like to know on what basis those courts proceeded in determining punishments and further asked whether it would not facilitate matters if specific legislation existed in that regard. He would also like to know whether there were any mechanisms designed to combat discrimination in the State party and, if so, how they operated.

22. **Ms. Chanet** said that the replies provided by the State party to the questions raised by the Committee related mainly to legislation that had been enacted and not to the reality on the ground, in particular the difficulties encountered in implementing Covenant rights. With respect to the lack of progress in adopting the Family Code, for instance, it would be interesting to know about the barriers to regulating family matters posed by the existence of certain discriminatory customary laws relating to marriage and succession.

23. Turning to the issue of discrimination between men and women, she noted that the State party had refused to recognize the right to intervene in a number of areas where it had an obligation to do so under the Covenant. With regard to the specific issue of violence against women, which appeared to be a taboo subject, she would like to know what measures the Government was planning to take regarding various acts that had not yet been criminalized, such as conjugal rape, harassment and incest. As the law of 2002 prohibiting FGM appeared to be a dead letter, she asked what measures the Government was planning in order to put an end to the practice.

24. In view of the non-observance of a number of statutory provisions governing pretrial detention and police custody, she asked what steps the Government was taking to address that situation. With regard to pretrial detention in particular, she would welcome detailed information on the case of Khadidja Ousmane Mahamat, about whom the Committee had expressed concern in its previous concluding observations (CCPR/C/TCD/CO/1) and who had been in pretrial detention since 2004. Lastly, she asked the delegation to confirm the accuracy of reports received by the Committee according to which local chiefs operated entirely unregulated detention centres.

25. **Mr. Kälin** said that he would like to know why, given the Government's assurance that it was working to abolish the death penalty, the draft criminal code continued to provide for such a punishment. While welcoming the de facto moratorium on the death penalty in place in Chad, he asked why the death sentence was still being imposed by the courts, as for example in the case of Guidaoussou Tordinan, who had been sentenced to death by the N'Djamena criminal court for shooting his wife dead. He asked the delegation to communicate to the Committee the exact number of people currently on death row in Chadian prisons.

26. On the issue of extrajudicial executions, he requested further details of the results of any investigations carried out, in particular with regard to the cases concerning Professor Nomaye Madana, who had been shot dead on 24 April 2013 by unknown masked men, and Mr. Abaye Khauswe-Menwa, who had been killed in N'Djamena on 12 September 2013.

27. The State party had indicated in its replies to the Committee that, in the absence of an independent complaints mechanism, it was the prosecution service that dealt with complaints from detainees. He asked the delegation to provide details concerning the number of complaints received in the previous year and follow-up to them. He also enquired about the results of the investigations into the deaths by asphyxia of four prisoners in Mata Léré and the killings of detainees by the defence forces during the uprisings of

2011. With regard to Ordinance No. 0032/PR/2011 on the penitentiary system, he wished to know whether the corresponding implementation decree had been adopted. He also enquired whether prison monitoring commissions had been established and, if so, what resources they had, in particular to visit facilities remote from the capital. In that regard, he would like to know whether family members could visit relatives imprisoned far from their homes.

28. **Mr. Salvioli** said he was concerned that the State party's replies to the list of issues raised by the Committee were lacking in detail, making it difficult for the latter to assess the actual situation in the State party and thus requiring a series of further questions. He would like to know what measures the Government was taking to criminalize torture. He asked why the Government had failed to establish an independent mechanism to deal with complaints against police officers and members of the security forces, despite the recommendation to that effect made by the Committee against Torture. He expressed concern that the State party had provided no information on individuals who had been charged, tried or convicted in relation to acts of torture.

29. A further matter of grave concern was the suspension by a judge on 22 July 2013 of the investigation into the enforced disappearance of Ibni Oumar Mahamat Saleh. Since enforced disappearance was a continuing crime, it was imperative that investigations should be pursued until the individual concerned had been found. He also expressed concern that no information had been provided on the measures taken to bring to justice the perpetrators of the other cases of enforced disappearance referred to in the list of issues.

30. With regard to the compensation awarded to victims referred to by the State party in its replies, he asked the delegation to provide details on the number of victims concerned. He would also like to know what other forms of redress had been obtained by victims of serious human rights violations. On the issue of the Government's responsibility to protect sites of significance to collective memory, the Committee was concerned at reports that a prison known as La Piscine, where acts of torture had occurred, might be redeveloped rather than kept as a memorial.

31. Lastly, despite the existence of legislation prohibiting corporal punishment, it appeared that the practice was still widespread, particularly in Koranic schools. He wondered, therefore, how many people had in fact been tried and convicted of that crime. He also asked whether corporal punishment in the home was punished.

32. **The Chairperson**, speaking as a member of the Committee, noted the State party's assertion that the judicial investigations into the allegations of extrajudicial killings referred to in the Committee's previous concluding observations had not led to the perpetrators being identified. Further noting the lack of an independent mechanism to investigate complaints against the security forces, he recalled that the Committee often recommended the establishment of such a mechanism precisely because of the difficulties encountered by the security forces in investigating their own conduct.

The meeting was suspended at 4.45 p.m. and resumed at 5.15 p.m.

33. **Mr. Koulamallah** (Chad) said that the State party would heed all the Committee's recommendations.

34. **Mr. Ratebaye** (Chad) said that an "access to justice unit" had been established by the Ministry of Justice. A separate department disseminated information about all the international instruments ratified by Chad, which were directly incorporated into the State party's legislation and could be invoked by and before the courts.

35. **Mr. Bartchiret** (Chad) said that reform plans to make the National Human Rights Commission compliant with the Paris Principles had been brought before the Council of

Ministers on several occasions but their consideration had been delayed for a variety of reasons. It was possible that they would be adopted by parliament by the end of 2014.

36. **Mr. Malloum** (Chad) said that reform of the Commission had also been held up because the United Nations had failed to respond to a request from the State party for assistance in drafting the plans.

37. **Mr. Bartchiret** (Chad) said that the National Action Plan on Human Rights had been approved by a committee made up of ministers and representatives of the National Assembly, trade unions and human rights NGOs. Funding for the plan had, however, not yet been finalized.

38. **Ms. Neldengar** (Chad) said that certain human rights NGOs had decided not to participate in the 2010 National Forum on Human Rights because they had not been specifically invited. However, they had all attended the subsequent ceremony to mark the founding of the Maison des Droits de l'Homme (Human Rights House). FGM was an offence under the Criminal Code and some people had been successfully prosecuted for the offence in the south of the country. NGOs were working with the Government to raise public awareness of the problem and to assist women who earned their living by carrying out female excisions to find alternative occupations. The Government was committed to eradicating the practice.

39. **Mr. Daoudongar** (Chad) reiterated that the international instruments to which Chad was a party could be invoked by the courts, thereby filling certain gaps in domestic legislation. It was by invoking human rights treaties that the Constitutional Court had been able to hand down several rulings relating to discrimination.

40. **Mr. Djounoumbi** (Chad) said that the Government was moving towards the adoption of a family code, but it had to take into account religious and cultural sensibilities, as explained in the periodic report. Consultations with religious and community groups were continuing.

41. **Mr. Bartchiret** (Chad) said that the 1958 Civil Code of France was still in force in the State party and had served it tolerably well. Family issues such as divorce and inheritance had, as a rule, been dealt with under the Code and taking into account the customs and religious beliefs of the parties concerned. Adoption of a family code along the lines required by international standards was a thorny problem. Such a code had been adopted in Mali and subsequently repealed in the wake of widespread social unrest. Polygamy was widely supported by men and women, meaning that a significant effort to raise public awareness would be required in order to persuade the majority of the population of the need to introduce a modern family code. Nevertheless, the State party was working in that direction.

42. A moratorium on the death penalty had effectively been in place for more than 10 years, as anyone sentenced to death could obtain a pardon and have the sentence commuted to a prison term. A considerable effort on the part of the authorities would be needed, however, in order to convince the general public of the need to abolish the death penalty.

43. **Mr. Daoudongar** (Chad) said that investigations into the murders of Nomaye Madana and Abaye Khauswe-Menwa were continuing. Ordinance No. 0032/PR/2011 on the penitentiary system set forth the rights of detainees, including the right to access their case files, receive medical care and visits by lawyers and family members, and to file complaints about their treatment in places of detention. Prison governors were duty-bound to forward such complaints to the Office of the Public Prosecutor. No statistics concerning the number of complaints filed and acted upon were available for 2013. Prison conditions had improved considerably since the Forum on Justice in 2003.

44. **Mr. Bartchiret** (Chad) said that commissions with the authority to conduct unannounced prison visits had been set up in each region of the country. They were presided over by the chief district court judge and included eight representatives of local authorities. Referring to questions posed by Mr. Salvioli, he said that the Council of Ministers had recently discussed the matter of the new draft Criminal Code, which should be enacted in the near future. The European Union was helping the State party to draft the Code, which would constitute a substantial step forward in the process of judicial reform in Chad.

45. Referring to the court ruling on the disappearance of Ibni Oumar Mahamat Saleh, he said that the delegation could not comment on such decisions. However, if new facts came to light, inquiries could be reopened. The Government was prepared to study all applications for compensation. All victims who had submitted applications thus far had received compensation. Corporal punishment was rarely inflicted on children in schools in the State party and parents generally opposed it. Many women did not report cases of domestic violence, thus hindering the Government's efforts to address the problem. There was a need to raise public awareness in that regard.

The meeting rose at 6 p.m.